

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1062 of 1982

with

FIRST APPEAL No 1063 of 1982
Cross with FIRST APPEAL No 963 of 1982

FIRST APPEAL No.1063 of 1982

With

FIRST APPEAL No.964 of 1982

FIRST APPEAL No.963 of 1982

With

FIRST APPEAL Nos.964, 1062, 1063 of 1982

FIRST APPEAL No.964 of 1982

With

FIRST APPEAL No.1063 of 1982.

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO

of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

HASUMATIBEN AUGSTIN

Versus

CHRISTIAN CO.OP. HOUSING SOC. LIMITED.

Appearance:

1. First Appeal No. 1062 of 1982

FRESH NOTICE REQD(N) for Petitioners

NOTICE SERVED for Respondent No. 1

MR MC BHATT for Respondent No. 2

MR SIRAJ R GORI FOR MR PM RAVAL for Respondent No.3

MR NW ROZIA for Respondent No. 5

SERVED BY RPAD - (N) for Respondent No. 6

2. First Appeal No 1063 of 1982

MR CB DASTOOR for Petitioners

MR SIRAJ R. GORI FOR MR PM RAVAL for Respondent No.1

NOTICE UNSERVED for Respondent No.5, 11

3. First Appeal No.963 of 1982

Mr.M.C. Bhatt for Petitioner

Mr.C.B. Dastoor for Respondents No.1 & 2

Mr.Siraj R. Gori for Mr.P.M. Raval for Respondents
No. 3, 4

4. First Appeal No.964 of 1982

Mr.M.C. Bhatt for petitioner

Mr.C.B. Dastoor for respondents No.1, 2.

Mr.Siraj R. Gori for Mr.P.M. Raval for Respondents
No. 3, 4

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 04/05/2001

C.A.V. (Common) JUDGEMENT

1. This group of four First Appeals Nos.1062/82 with
F.A.No.1063/82, F.A. Nos.963/82 and 964/82, arises out
of the common judgement and decree dated July 31, 1981
recorded by the learned Judge of the City Civil Court,
Court No.19 in two consolidated Civil Suits No.3476/75
and 516/76, under which the learned Judge has held that
the plaintiffs of Civil Suit No.3476/75 have failed to

prove that a word in the will of deceased Bhaniben dated 7.1.1957 at Exh.90, was subsequently erased and overwritten in the said will and that the said change was also made subsequent to her death. The Trial Court also found that it is not proved that deceased Samuel Ibrahim had executed a will dated July 28, 1970 in a sound mental condition. Therefore the suits were disposed of accordingly by the Trial Court. Against this disposal of the said Civil Suit by the said judgment and decree, the present four Appeals have been filed in this Court under Section 96 of the Code of Civil Procedure, 1908. In order to appreciate the admitted and disputed facts of these two suits leading to these four Appeals may be briefly stated as follows :-

1. Deceased Bhaniben had married deceased Gulabdas and out of the said wedlock birth was given by Bhaniben to a daughter child Martha who also died in 1969. Deceased Martha had left two daughters Hasumatiben and Graceben. These two daughters are shown as plaintiffs in Civil Suit No.3476/75 and they are shown as appellants in F.A. No.1062/82.
2. In the meantime, deceased Ibrahim had contracted marriage with Dayaben. They had a son and a daughter Vinaykant and Shantaben. They are shown as defendants No.3 & 4 in Civil Suit No.3476/75 and also shown as respondents No.3 & 4 in the aforesaid F.A.
3. Incidentally, this Vinaykant and Shantaben had also filed Civil Suit No.576/76, but incidently they had not preferred appeal against judgment and decree passed in the said suit by way of the aforesaid common judgment and decree by the learned Trial Judge.
4. Deceased Bhaniben referred to herein had contracted second marriage with deceased Ibrahim who died in 1950. Out of the said wedlock birth was given to one male Child Samuel who has also passed away.
5. Admittedly all the parties to the suits as well as to the appeals belong to the Christian Community.

2. It has been alleged that deceased Bhaniben referred to above had executed a will on 7.1.1957, which has been placed at Exh.90. She had expressed her desire for the distribution of her property as stated in the said will at Exh.90. The dispute is that there was some eraser made in this will at Exh.90 dated 7.1.1957, with respect to this, will of deceased Bhaniben, the Trial court has found that the aforesaid eraser was not made subsequent to the execution of the will and, therefore, a minor change in the said will was upheld by the Trial Court.

3. On the other hand, deceased Samuel also executed a will on 28th July, 1970 which has been placed at Exh.138. Respondents No.1 and 2 of F.A. No.1062/82 are the two Societies who have been claiming the property in question through the said will of deceased Samuel. Therefore, if the will of deceased Samuel referred to herein above and produced before the Trial Court at Exh.138 is upheld then the property would go to the said Societies which are shown as respondent Nos.1 and 2 in F.A.No.1062/82. Incidentally, the said Societies have also preferred First Appeals being F.A. Nos.963/82 and 964/82 challenging the aforesaid judgment and decree of the Trial Court under which the Trial Court has found that the said will was not executed by Samuel in sound mental condition. The Trial Court has found that deceased Samuel was a weak minded person; that he has not deposited the will in accordance with the provisions contained in Section 118 of the Indian Succession Act, that there are observations of this Court with respect to his mental status which goes to show that he has been led away and carried away by someone. Therefore the will said to have been executed by deceased Samuel, according to the decision of the Trial Court, is not enforceable.

4. The Trial Court has found that deceased Samuel was not having sound mind or that he was a weak minded person and, therefore, the will executed by him cannot be treated to be legal. The Trial Court has also found that the will was not deposited in accordance with Section 118 of the India Succession Act, and, therefore, the will cannot be treated to be legal. Since the aforesaid findings have gone against the aforesaid Societies being defendants No.1 and 2 in the aforesaid Civil Suit No.3476/75 and defendants No.1 to 14 in Civil Suit No.516/76, the aforesaid defendants have preferred F.A. Nos.963/82 and 964/82. There they have substantially challenged the aforesaid finding and decision of the Trial Court holding that the will was not legal and

proper. It is required to be noted that by the aforesaid will dated 28.7.1970 at Exh.138 deceased Samuel had given property to the said defendants who are appellants in the aforesaid two First Appeals. In other words, the appellants in the said two appeals No.963/82 and 964/82 have been claiming the property in question through the said will of deceased Samuel Ibrahim.

5. The appellants-societies in F.A.No.963/82 and 964/82 have therefore, claimed in their appeals that the Trial Court has failed in appreciating the evidence on record, with respect to the mental condition of deceased Samuel. That, the Trial Court has erred in holding that the will of deceased Samuel is illegal on the alleged ground of non observance of the procedure laid down in Section 118 of the Indian Succession Act, 1925. That, the judgment and decree of the Trial Court are therefore, illegal and erroneous and deserve to be set aside. They pray that these appeals be allowed and the judgment and decree of the Trial Court be set aside and the will of deceased Samuel be held to be legal and valid.

6. The appellants in other two First Appeals Nos.1062/82 and 1063/92 have contended that the Trial Court has erred in holding that the will of deceased Bhaniben was not amended subsequently and that the said amendment and overwriting are not in genuine. That therefore, the judgment and decree of the Trial Court, to this extent, are illegal and erroneous and hence, they be set aside and their Civil Suit No.3476/75 be decreed in terms of reliefs prayed for by them, and Civil Suit No.516/76 be dismissed with cost.

7. Both the appeals were admitted and notices have been served. I have heard the learned advocates for all the parties to these four appeals, who have taken me through the judgment and records of the Trial Court including oral and documentary evidences.

8. Mr.M.C.Bhatt, learned counsel on behalf of the appellant Societies in the aforesaid two First Appeals No.963/82 and 964/82 has argued the matter to a very great extent. He has argued that the competent Courts have considered previously that deceased Samuel was not a lunatic and, therefore, the findings were recorded on merit holding that he was not found to be lunatic and therefore, the Trial Court has failed in properly appreciating this aspect of the case.

9. On the other hand Mr.A.H.Mehta, learned Advocate on behalf of the respondents in those two appeals has

argued at length that deceased Samuel was a weak minded person and therefore the will executed by him and referred to herein above at Exh.138 could not be treated to be legal and valid. Another argument of Mr.A.H.Mehta learned advocate for some respondents in those two appeals is that the will was required to be deposited in accordance with the provisions under Section 118 of the Indian Succession Act, 1925 and the will was not deposited accordingly and, therefore, the will would not be enforceable. Now on going through the record it is noticed that the will was not deposited in accordance with Section 118 of the Indian Succession Act, 1925, (for short the "Succession Act."). It would be relevant to refer to the provisions contained in Section 118 of the Succession Act as follows :-

1. No man having a nephew, a niece or a nearer relative shall have power to bequeath any property to religious or charitable use except by will executed by not less than 12 months before his death and deposited within 6 months from its execution in some place provided by law for the safe custody of the wills of a living person.
2. Therefore, the law makes it clear that as and when the will is made in favour of an institute for religious or charitable use then the will is required to be deposited within 6 months from the execution of the will in some place provided by law for the safe custody of the wills of a living person.

10. As said above it is nobodys case that the will was deposited in accordance with Section 118 of the Succession Act. Therefore, it is apparently clear that the provisions made under Section 118 of the Succession Act have not been complied with. In the premises, it has been argued that when the said provision is not complied with, the will would not be treated to be legal and valid and it would not be enforceable through the agencies of the Court. Mr.A.H.Mehta, learned Advocate on behalf of the contesting respondents in these two appeals had relied upon a decision of Bai Cursetbai C. Dossabhoy v. Bai Hamabai Jehangir Dossabhoy reported in A.I.R. 1943, Bombay 317. The aforesaid aspect was required to be considered by the Honourable the Bombay High Court. The relevant observations of the said reported case may be reproduced for ready reference herein below :-

"Any bequest to charity is void under

Section 118 unless the conditions laid down therein are complied with. The bequest may be a direct bequest or a contingent bequest. So long as it is a bequest to charity, the words used in Section 118 are wide enough to make it applicable to bequests of any kind. But before a bequest to charity can be held to be good under Section 118, the following conditions must be fulfilled :
(1) the testator has a nephew or niece or any nearer relative and he is alive at the time of the death of the testator;
(2) the will must be executed not less than 12 months before the death of the testator; and (3) it must be deposited within 6 months from its execution in some place provided by law".

11. Therefore it is clear that if the will has not been deposited at the proper place in accordance with requirement of Section 118 of the Succession Act, then the will would not be enforceable. Attempt was made on behalf of the appellants in these two appeals to argue that the appellants in these two appeals have been carrying on educational activities also. Mr.M.C. Bhatt learned advocate for the appellants in these two appeals has argued that the main object of these appellants Societies is to publish a Bible.

12. Now, admittedly, Bible is a religious book or a holy book which is respected not only in Christian Community but it is well respected by many other religions or the persons believing in other religions. To publish such a religious book is also an object to propagate whatever is said in this holy book. This would mean that it is also a way of propagating this religion through its publication which has to be treated as religious activity. Therefore, it cannot be said that the appellants Societies in these two appeals have not been carrying on religious activities within the meaning of Section 118 of the Succession Act. It also cannot be said that the property has not been bequeathed for religious or charitable use. In aforesaid view of the matter, I am of the view that the property has been bequeathed for religious use by deceased Samuel without complying with the requirement of Section 118 of the Succession Act, and, therefore, the will executed by deceased Samuel cannot be said to be legal and it cannot

be enforced through the Courts. Therefore, cumulative effect would be that the will of the deceased Samuel has been rightly quashed and aside and hence, two appeals being F.A. Nos.963/82 and 964/82 can be dismissed only on this consideration.

13. However, since it has been argued at length mainly by Messrs.M.C. Bhatt and A.H.Mehta that deceased Samuel was or was not having sound mental condition or that he was not capable of understanding the consequences of his acts and omissions it would be desirable to discuss the said issue in a brief manner.

14. The Trial Court has framed the issue to the effect as to whether the plaintiffs, in the alternative, prove that Samuel Ibrahim was mentally retarded and not capable of taking care of his interest and think rational about his own interest and make a rational judgment. The Trial Court has answered the issue in the affirmative meaning thereby that deceased Samuel was not capable of understanding the consequences of acts and omissions. The learned Judge has discussed this issue in para 29 of his judgment. There, the mental aspects of deceased Samuel have been considered and discussed at length and thereafter the aforesaid finding has been arrived at by the Trial Court in para 31 of the judgement. The learned Judge has considered the certified copy at Exh.152. The certified copy of the judgment in Civil Misc. Application No.318/71 preferred by Dayaben, mother of defendant Nos.3 & 4 in the aforesaid Civil Suit under Section 46 of the Indian Lunacy Act. There the City Civil Court dealing with the aforesaid matter had observed that in view of the sound physical and mental condition at the time when the examination was made before the Court and in view of the answers which he gave, it is difficult to hold that deceased Samuel Ibrahim is a person of unsound mind or that he is not capable of managing his property.

15. On the strength of this observation of the City Civil Court in judgment at Exh.152, Mr.M.C. Bhatt had argued at length that considering this aspect of the case it could not be said that deceased Samuel was not having sound mental condition. Now it is to be considered here that the aforesaid proceeding was under a law relating to lunatics. Therefore, the relevant aspect was as to whether or not deceased Samuel was a lunatic within the meaning of the Act at relevant point of time. Therefore, the finding was required to be recorded by the City Civil Court on that aspect of the case. It is well settled that a person may be a weak minded person. He may be

carried away or led away and may be influenced very easily at the instance of someone. This would not mean that he is necessarily a lunatic. On the other hand whether a person can be treated to be lunatic or not would be a matter of different consideration. A weak minded person need not be a lunatic, therefore that decision was required to be arrived at on the appreciation of the material placed before the Court concerned, while dealing with the matter in the Indian Lunacy Act. So far the execution of will is concerned the matter is quite on a different footing. A person may not be a lunatic and yet it is to be considered whether or not he was able to understand his acts and omissions and consequences of his acts and omissions. Therefore, I am of the opinion that the observations made by the aforesaid Court while dealing with the said matter, would not have much bearing on the facts of the present case, wherein the matter is not required to be considered under the Indian Lunacy Act, but is required to be considered on the basis of the material placed before the Court to ascertain as to whether or not deceased Samuel was a weak minded person.

16. The Trial Court has again considered this aspect of the case and it has been found that deceased Samuel was a person of weak mind. When the Trial Court has discussed the matter at length and when the Appellate Court generally agrees with the reasoning of the Trial Court then it is well settled that it is not necessary for the Appellate Court to go into the detailed discussion on the subject and to reiterate the reasoning adopted by the Trial Court for the purpose of endorsing and confirming the same. Therefore, I am of the view that the Trial Court has considered the aspect of the mental condition of the deceased Samuel and, I am also of the view that the records show that the deceased Samuel was a weak minded person and, therefore, he could not have bequeathed the property in favour of the aforesaid Societies. Apart from the said aspect in this case as said above the requirement of Section 118 of the Succession Act have not been complied with and in view of the aforesaid proposition of law laid down by the Honourable the Bombay High Court, the will executed in violation of the said statutory and mandatory procedural provisions of Section 118 of the Succession Act, 1925, the will of deceased Samuel cannot be said to be legal and valid. In the premises, it is absolutely clear that the Trial Court was justified in holding that the will was not legal and valid and, therefore, it could not be acted upon. As said above, the Trial Court passed a decree and there it has been held that it is not proved

that deceased Samuel Ibrahim executed in sound disposing state of mind, the will dated 28.7.1970, bequeathing suit property to the appellants of F.A. Nos. 963/82 and 964/82. I do not think that the said finding is illegal, wrong, unjust or against weight of evidence on record and therefore, vulnerable. Therefore the said finding of the Trial Court is perfectly legal and valid and there is no option but to confirm the same. Once the will of deceased Samuel Ibrahim is found to be not enforceable either on account of non deposit under Section 118 of the Succession Act or on the ground that the deceased was not in sound mental condition at relevant point of time and since the aforesaid Societies have been claiming only through the will of deceased Samuel, their appeals deserve to be dismissed without any further consideration. Therefore, so far the First Appeals of the Societies are concerned, the said appeals being F.A. Nos.963/82 and 964/82 are required to be dismissed as the judgment and decree of the Trial Court are not found or proved to be illegal or erroneous. It is more so when except the will of the deceased Samuel Ibrahim there is no other document in favour of the appellants. In my opinion, the Trial Court has not committed any illegality in deciding the matter of the will of deceased Samuel Ibrahim and therefore I am of a clear decision that the said two appeals of the said Societies deserve to be dismissed and the judgment and decree of the Trial Court should be confirmed.

17. So far other two appeals are concerned they are F.A. Nos.1062/82 and 1063/82. There the main challenge is with respect to the will of deceased Bhaniben. It would be relevant to consider that deceased Bhaniben has executed a will on 7.1.1957. It has been produced at Exh.90. It is not much in dispute that the original could not be produced and therefore a photo copy thereof is produced on record. In fact these Societies referred to herein above which are the appellants in the aforesaid two F.A. Nos.963/82 and 964/82 and which are the respondent Nos.1 and 2 in F.A. Nos.1062/82 and 1063/82 are concerned they have no axe to grind with respect to the will of deceased Bhaniben. They are not concerned if the said will is upheld. They are not gaining anything if the will of deceased Bhaniben is set aside. These two Societies are again not going to gain or lose anything if the will is upheld. Therefore, they are not at all concerned with the will of deceased Bhaniben.

18. Mr.A.H. Mehta, learned advocate appearing on behalf of the appellants in the aforesaid two appeals has argued at length that the will of Bhaniben dated 7.1.57

at Exh.90 is not in dispute, but there is some overwriting and said overwriting is under challenge in these two appeals. Therefore we are required to consider as to whether or not the said writing or overwriting is an after thought or it has not been effected by Bhaniben at the time of execution of will. We are also required to consider as to whether or not the said overwriting would go to the root of the will itself. Incidentally, the persons who could give evidence about the will and about the alleged eraser and overwriting are no more alive and therefore first hand evidence is not available for the purpose of deciding the genuineness of the said eraser of the said will of deceased Bhaniben. In fact, no witness to the event of execution of this will was alive at evidence stage. The main contention of the parties are around a word daughters "Dikario" in the said will of the deceased Bhaniben.

19. We can turn to the photostate copy of the will at Exh.90 dated 7.1.57 executed by deceased Bhaniben. Admittedly, the original has not been produced on record and it seems that the whereabouts of original are not known. The photostate copy of the will has been produced at Exh.90. The photographer has been examined to prove that he had taken out photograph from the original will. The negative has also been brought on record. The crucial part is whether the overwriting from substitution of a word in place of original word is genuine or it has been done afterwards.

20. As said above, the persons who were present at the time when the will was executed are not alive and therefore it is not possible for either side to say as to what was the real position of writing when the will was executed. It is therefore not possible for them to say that subsequent introduction of a word in place of the older one has been introduced by someone else other than Bhaniben after the execution of the will. In effect, the second para of the will at Exh.90 shows desire of the deceased Bhaniben to the effect that her daughter Martha should stay in this property till her lifetime with her brother. It is further stated that she should pay rent and tax as may be fixed by the municipality. It is further stated that if deceased Samuel died without any heir then daughters of Martha would take the property. It is found that originally the will was to the effect that the daughters of Martha should take the property in case deceased Samuel died without leaving any heir. Instead of the word "daughters" the word "successor" has been introduced. Therefore originally, the will can be read as aforesaid, meaning thereby, that as per the

original will it was stated that in case deceased Samuel died without leaving any heir then daughters of deceased Martha would succeed and take the property. After the change of words in the said will at Exh.90 the will would read like that in case deceased Samuel died without leaving heir then the heirs of deceased Martha would succeed and take the property. Mr.A.H.Mehta, learned advocate appearing for the appellants has argued at length that deceased Bhaniben really wanted to see that the daughters of deceased Martha become successor in title in respect of the said property and that instead of the words "daughters" word "successor" has been introduced subsequently in the will.

21. There is no evidence to show that the said change was not made on the subject before execution of the will. It is then not proved on record that the will in question remained in custody of the contesting respondents at any point of time and they had their opportunity to make minor change in the said will at Exh.90. Then there is no evidence of hand writing expert on record to show that the handwritings of the words subsequently added were of someone else, other than Bhaniben. There is no expert evidence to show that the person who has written the will at Exh.90 has not written the aforesaid word "successor". In fact there are small other erasers in the will at Exh.90. The will has not been drafted or does not appear to have been drafted by any advocate or rather a person experienced in the field of drafting such documents. The persons gathered may have drafted the will in their own way. Therefore, it is required to be interpreted in that back ground. In that view of the matter, strict interpretation of the will cannot be taken into consideration. It is well settled that the Moffussils pleadings may not be construed strictly and rigidly. Same way the will executed by the person not experienced in the field need not be strictly construed.

22. Any way, there is no evidence to show that the subsequent addition in the will did not represent the intention of the maker of the will i.e. deceased Bhaniben. It is also not proved on record that the person interested in introducing the said word in the said will at Exh.90 has subsequently amended the said will against the desire of the maker of the will i.e. deceased Bhaniben. In order to substantiate the argument of Mr.A.H.Mehta, learned advocate appearing for appellants in F.A. Nops.1062/82 and 1063/82 has argued at length that certain letters were addressed by deceased Samuel wherein there is indirect reference of the desire of deceased Bhaniben for bequeathing the property to

daughters, meaning thereby, that deceased Bhaniben had given her property to the daughters of deceased Martha and, therefore, the persons other than the daughters would not be entitled to the same.

23. The learned advocate Mr.A.H.Mehta has taken me through those letters in order to substantiate his argument on this aspect of the case. A question was required to be considered as to whether or not these appellants can put forward some writings of deceased Samuel in order to support their contentions that the change was made subsequently and this was not the intention of deceased Bhaniben. On this aspect, it is required to be considered that it was the argument of Mr.Mehta learned advocate for the appellants in these two appeals, that deceased Samuel was a weak minded person and was not capable of understanding the consequences of his acts and omissions. This was urged while arguing the legality and validity of the will said to have been executed by deceased Samuel on 28.7.70 produced at Exh.138 bequeathing the property in favour of the said two respondent Societies. Now if deceased Samuel was not found to be a person capable of understanding the consequences of his acts and omissions or that he was a weak minded person or that he could be carried away by someone then in that case the said state of mind can come in the way of the appellants of these two appeals being F.A. Nos.1062/82 & 1063/82. When deceased Samuel was shown to be a weak minded person then naturally the letters addressed by him are also required to be considered from that angle and if they are considered accordingly, they would not carry any weightage and, therefore, it would be in the fitness of things or in the interest of justice not to give undue weight to the writings of these letters. Even otherwise the learned trial Judge has given reasons in details in holding that the present appellants in these two appeals have failed to prove that these erasers were made subsequently and hence, they were not binding to the daughters of deceased Martha. It is again well settled that when the Appellate Court broadly agrees with the findings of the Trial Court and the reasonings adopted by it for arriving at a particular said finding, it is not extremely necessary for the Appellate Court to go into detailed discussion. This can be gathered from the well known decision of the Honourable the Apex Court in the case of State of Karnataka v. Hema Reddy and anothers, A.I.R. 1981 S.C.1417. The aforesaid decision makes it clear that when the Court of Appeal is in general agreement with the reasonings and findings of the lower Court then it is not necessary to reiterate the reasonings and findings for

confirming them. I respectfully follow this principle and find that it is not very much necessary to go into detailed discussion on the point as to whether or not the change made in the will at Exh.90 was not made by deceased Bhaniben and it was made by the persons interested in so doing. I am of the opinion that there is no reason to differ from the view adopted by the learned trial Judge. In other words it is to be held that the appellants have failed to prove that the said change in the will was effected subsequently against the desire of Bhaniben. These are two main issues contested before me by learned advocates for the parties.

24. Mr.Ghori appearing for Mr.P.M.Raval for some of the respondents has supported the judgment and decree of the Trial Court. It would be relevant to consider that the respondents represented by Mr.P.M.Raval have not preferred appeal and therefore they can naturally not challenge the finding of the Trial Court also. Any way he has supported the judgment and decree of the Trial court. Once the said writing in the will is found to be genuine and the will is found genuine then the appellants in these two appeals cannot claim to be sole-owners of the property in question, on the strength of the will of deceased Ibrahim and on the will dated 7.1.57 of deceased Bhaniben. The learned Trial Judge was perfectly justified in holding that these appellants have failed to prove that they have become sole-owners of the property in question, on the death of deceased Bhaniben and deceased Samuel Ibrahim. The Trial Court was justified in holding that the appellants have proved that they have become owners of the suit property as the sole heirs of the deceased Samuel Ibrahim.

25. For the reasons recorded herein above, I am of the opinion that the appellants in all the four appeals have failed in satisfying this Court that the judgment and decree in the aforesaid two Civil Suits, disposed of by a common judgment and decree, are illegal and erroneous, in accordance with their respective contentions, in their respective appeals. The two First Appeals of the two societies fail on legal and factual aspects The other two appeals, fail on the factual aspect. The Trial Court has considered all the pros and cons and has discussed each point of dispute at length. No point of either side has been missed. The Trial Court has not committed any error in appreciation of evidence or factual or legal aspect of the case. There is absolutely no reason to disagree with the findings and reasonings of the Trial Court. Then the necessary consequences is that all the four appeals are meritless

and hence, deserve to be dismissed.

26. In the result, all the four appeals, filed by their respective appellants are dismissed and common judgment and decree of the Trial court in both the Civil Suits are confirmed. No order as to costs as regards these four appeals.

04.05.2001. (D.P. Buch, J).

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